

Sumter City-City Zoning Board of Appeals

Wednesday, June 9, 2010

BOA 10-11, Mulberry Missionary Baptist Church; 1400 Mulberry Church Rd. (County)

I. THE REQUEST

Applicant: Dwayne Hardee for Hardee Construction on behalf of Mulberry Missionary Baptist Church

Status of the Applicant: Contractor

Request: Request for 8' variance to the required 50' side setback for a new multi-purpose building on site of existing Church.

Location: 1400 Mulberry Church Road

Size of Property: 5.21 acres (3.77 acres delineated on plan).

Present Use: Church

Zoning: Agricultural Conservation (AC)

Proposed Use: One additional building to be placed on the site with associated storm drainage and utilities; additional parking area and landscaping.

Tax Map Reference: 263-00-02-028

II. BACKGROUND

The applicant is requesting a variance to the side setback in order to construct an additional building to the existing Mulberry Missionary Baptist Church site located at 1400 Mulberry Church Rd. Churches are a conditional use in the AC zoning district and must be developed in accordance with the site development standards in Article 8 of the Zoning Ordinance.



The new building will include classrooms, a dining hall and meeting areas, totaling 8,100 square feet, and the existing Church building is approximately 10,000 square feet. In addition, there will be additional parking spaces, including handicapped van accessible spaces, and landscaping.



The site is comprised of a 5.21 acre parcel fronting along the south side of Mulberry Church Road off of Hwy. 521 S in Sumter County. The parcel is located in a sparsely populated area in the southern portion of Sumter County, and is surrounded by agricultural land.



Mulberry Baptist Church is located in a sparsely populated area, surrounded by farmland

In the Agricultural Conservation (AC) District, religious institutions (churches) are permitted as a conditional use. The proposal meets all requirements for conditional uses as designated in Article 5 of the Ordinance and received Site Plan approval for the proposed expansion from the Planning Commission in December 2009. There is no zoning change or amendment proposed for this expansion of an existing use, nor is one required. Based on the submitted site plan and two site visits, the proposed expansion will be compatible with the existing development in the immediate area.

III. SUMTER COUNTY ZONING ORDINANCE

Article 3.n.5 *Development Standards* in the Agricultural Conservation (AC) zoning district states:

Notwithstanding development standards set forth elsewhere by this Ordinance, the following minimum requirements shall apply within the AC, Agricultural Conservation District:

a. Lot Requirement (Minimum)

Minimum lot width requirement in the AC District is 60 ft.
Depth: There is no minimum lot depth requirement in the AC District.
Lot Area: 1 acre minimum

b. Yard and Building Set Back Requirements (Minimum)

| | <u>Front Yard Setback</u> |
|-------------------------------------|---------------------------|
| From local/collector Streets | 35 ft. |
| From all other type Streets | 45 ft. |
| | <u>Side Yard Setback</u> |
| For Residential Uses | 12 ft. |
| For Non-Residential Uses | 50 ft. |
| | <u>Rear Yard Setback</u> |
| From abutting Residential Districts | 50 ft. |
| From Non-Residential Districts | 50 ft. |

Churches are considered Non-Residential Uses and therefore must comply with the stated non-residential setbacks unless a variance is granted by the Sumter City-County Board of Zoning Appeals.

In order for the Board of Appeals to grant a variance from the City Zoning Ordinance, the proposed variance request must meet all four-parts of a State mandated four-part test. When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact that a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request.

IV. FOUR-PART TEST

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property.

The site is the only developed parcel in the vicinity, and is surrounded on all sides by farmland. The Church has been located here since the late 19th century, and recently celebrated its 140th anniversary. The present building sits where the original historic church was sited. There are mapped wetlands on the other side of the property which would be affected were the new building to be sited there. Also, the Church's sewer line runs between the old building and the proposed new building, and its exact location wasn't known until it was found during the preparation and initial site work for the foundation of the new building. DHEC requires a ten-foot separation between the sewer line and septic drain field and any adjacent structures. The layout and configuration of the wetland area, existing building and parking lot in conjunction with the sewer line and drain field dictates the placement of the new building. Therefore, a variance from the site setback is necessary in order to construct the building.

Even if the adjacent parcel on the side where the variance is needed is developed, the likelihood that it would be developed residentially is in question because of its location at the intersection with Hwy. 15 S. Were that to occur, the granting of this variance would not negatively affect the adjacent property from being developed in any manner consistent with its current zoning.

2. These conditions do not generally apply to other property in the vicinity.

This property is a relatively large parcel in a sparsely populated area, surrounded by active farmland that is not in a growth area, nor is it expected to be developed at any time in the foreseeable future. It is located beside a planted farm field on an adjacent parcel. It is the only Church in the vicinity on a rural road with a low number of trips per day. The variance request would not affect any neighboring property negatively, including the nearest neighboring parcel that is presently being farmed. No new interior access roads, driveways, or easements will affect any of the neighboring properties. There is already a driveway on the side of the existing Church that will access the new building. New landscaping will be installed in accordance with the requirements of the ordinance and the Site Plan that was approved by the Planning Commission in December 2009, which will improve the site considerably.

3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

The Church has been located in this area for over one hundred years and the use has not affected neighboring properties negatively. The Site Plan has been approved and shows consistency with ordinance requirements for access, parking, and landscaping. The size of the proposed building is consistent with its use as a Church, and the parcel is large

enough to accommodate all the parking and associated development impacts for this expansion. The variance is for eight (8) feet on the side setback requirement, resulting in a side setback of 42 feet instead of the required 50 feet. This will still allow for adequate separation of uses in this area and will not encroach on neighboring parcels.

4. *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.*

The authorization of this variance will not be of any detriment to adjacent property or to the public good. In addition to the construction of a new multi-purpose building that is consistent with the parcel's use as a Church; additional site development made possible by the variance will enhance the area with upgrades to the existing parking area and the addition of new landscaping including buffering around an existing service area. The stormwater permit has been granted and shows that the drainage on the parcel will not affect surrounding properties.

The request for a variance was advertised and adjacent property owners were notified of the request. No property owners or others submitted negative comments or statements to the Planning Department in reference to the request.

V. STAFF RECOMMENDATION

Upon finding that the request meets all parts of the required four-part test, Staff recommends approval of BOA-10-11.

VI. DRAFT MOTIONS for BOA-10-11

- A. I move that the Sumter Board of Appeals approve BOA-10-11, subject to the findings of fact and conclusions contained in draft order, dated June 9, 2010 attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals deny BOA-10-11 on the following findings of fact and conclusions:
- C. I move that the Sumter Board of Appeals enter an alternative motion for BOA-10-11.

V. BOARD OF ZONING APPEALS – JUNE 9, 2010

The Sumter City-County Board of Appeals at its meeting on Wednesday, June 9, 2010, voted to approve this request, subject to the findings of fact and conclusions on exhibit 1.

Exhibit 1

Order on Variance Application

Sumter Board of Appeals

BOA-10-11, 1400 Mulberry Church Rd. (County)
June 9, 2010

Date Filed: June 9, 2010

Permit Case No. BOA-10-11

The Sumter Board of Appeals held a public hearing on Wednesday, June 9, 2010 to consider the appeal of Mulberry Baptist Church for a variance from the strict application of the City Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the Applicant ☒ **has** - ☐ **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

The site is the only developed parcel in the vicinity and is surrounded on all sides by farmland. The Church has been located here since the late 19th century, and recently celebrated its 140th anniversary. The present building sits where the original historic church was sited. There are mapped wetlands on the other side of the property which would be affected were the new building to be sited there. Also, the Church's sewer line runs between the old building and the proposed new building. The layout and configuration of the wetland area, existing building and parking lot in conjunction with the sewer line and drain field dictates the placement of the new building.

2. The Board concludes that these conditions ☐ **do** - ☒ **do not** generally apply to other property in the vicinity based on the following findings of fact:

This property is a relatively large parcel in a sparsely populated area that is predominantly active agricultural lands. The area surrounding the subject parcel is not in a growth area, nor is it expected to be developed at any time in the foreseeable future. Mulberry Baptist Church is the only church in the vicinity on a rural road with a low number of trips per day. The nearest neighboring parcel that is presently being farmed. No new interior access roads, driveways, or easements will affect any of the neighboring properties. There is already a driveway on the side of the existing Church that will access the new building. New landscaping will be installed in accordance with the requirements of the Ordinance and the Site Plan that was approved by the Planning Commission in December 2009.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property ☒ **would** - ☐ **would not** effectively prohibit or

unreasonably restrict the utilization of the property based on the following findings of fact:

The Church has been located in this area for over a hundred years and the use has not affected neighboring properties negatively. The Site Plan has been approved and shows consistency with ordinance requirements for access, parking, and landscaping. The size of the proposed building is consistent with its use as a Church, and the parcel is large enough to accommodate all the parking and associated development impacts for this expansion. The variance is for eight (8) feet on the side setback requirement, resulting in a side setback of 42 feet instead of the required 50 feet. This will still allow for adequate separation of uses in this area and will not encroach on neighboring parcels.

4. The Board concludes that authorization of the variance ☐ **will** - ☒ **will not** be of substantial detriment to adjacent property or to the public good, and the character of the district ☐ **will** - ☒ **will not** be harmed by the granting of the variance based on the following findings of fact:

The authorization of this variance will not be of any detriment to adjacent property or to the public good. In addition to the construction of a new multi-purpose building that is consistent with the parcel's use as a Church, proposed site development will enhance the area with upgrades to the existing parking area, to include new landscaping and buffering around an existing service area. The stormwater permit has been granted and shows that the drainage on the parcel will not affect surrounding properties.

The request for a variance was advertised and adjacent property owners were notified of the request. No property owners or others submitted negative comments or statements to the Planning Department in reference to the request.

THE BOARD, THEREFORE, ORDERS that the variance is ☐ **DENIED** – ☒ **GRANTED**,
subject to the following conditions:

Approved by the Board by majority vote.

Date issued: _____

Chairman

Date mailed to parties in interest: _____

Secretary

Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.